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TAGS: [PREL](#) [PGOV](#) [PHUM](#) [AF](#)
SUBJECT: MP MALALAI JOYA VOTED OUT OF PARLIAMENT

REF: KABUL 1605

Classified By: Political Counselor Sara Rosenberry for reasons 1.4 (b)
and (d)

SUMMARY

11. (C) On May 21, the Lower House plenary session voted almost unanimously to expel Farah Province MP Malalai Joya from Parliament permanently for making (during a CNN profile that was rebroadcast by Tolo TV and then shown on the floor of parliament) what were perceived as deeply offensive comments about Parliamentarians. There nevertheless are questions about the constitutionality of parliament's move to dismiss her and the referral of her case for prosecution. Joya's case, like the case of the no-confidence vote against Foreign Minister Spanta, may end up in the Supreme Court, where it has the potential to set precedent not just about the law itself, but the role of the court in resolving Constitutional issues. END SUMMARY.

Parliament Expels MP

12. (SBU) After a lengthy debate on the plenary floor, the Lower House voted almost unanimously on May 21 to suspend MP Malalai Joya from the Parliament for the rest of the electoral cycle. The action followed remarks Joya made on a CNN program, rebroadcast on Tolo TV, and then shown on the floor of parliament. While Joya has frequently made disparaging remarks about the Parliament and its members, her most recent comments -- that Parliament was "worse than animals in a stable" made a response inevitable. For an Afghan, being compared to an animal is a grievous insult. No one has stepped forward to defend Joya, not even secular, reform-minded women who see her as complicating their efforts. Joya's salary will be suspended, and she will lose all privileges (including an allowance to cover security, transportation, and other costs) for the remainder of the Parliamentary cycle. The legal grounds for her expulsion are not clear. USAID/SUNY (State University of NY) parliamentary advisor notes that there is no provision for parliamentary

punishment or expulsion in the Afghan constitution. Even the provisional Rules of Procedure for the Wolesi Jirga do not seem to exactly address cases of this nature.

Parliament Intends to Prosecute MP

¶3. (C) The Lower House Committee for MP Safety and Privileges plans to refer Joya's case to the Attorney General for possible prosecution. MPs have cited three possible grounds for prosecution: (1) that Joya violated Article 24 of the constitution (which guarantees the protection of human dignity), (2) that she violated parliamentary rules of procedure that prohibit MPs from insulting one another, and/or (3) that she violated the country's defamation law. (Note: Post and UNAMA share the view that these all represent shaky grounds constitutionally. End Note.) Article 101 of the Constitution says no MP can be prosecuted for views expressed during performance of duty, but MPs on the Safety and Privileges Committee pointed out during the plenary debate that Joya made her comments to CNN while physically outside of the Parliament building.

COMMENT

¶4. (C) We have heard reports that opponents of reformers have a list of Ministers and officials they are targeting for removal, but Joya has not been mentioned as being on the list. She is a unique case in that she has alienated even most reformers in and outside of Parliament. In that sense

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she may not be considered as a significant political threat to the anti-reformers, but she does have many enemies and may well have well-founded security concerns.

¶5. (C) The action taken against Joya may not be based on clear rules, but, like the no-confidence votes on the Foreign Minister and Refugee Minister a week earlier (Ref), it has the potential of setting a significant precedent relating to parliamentary power. The case, like that of ForMin Spanta, may end up in the Supreme Court.

WOOD